

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 3

DOCKET NO.: 2005-1478-PST-E TCEQ ID: RN102240769 CASE NO.: 26820

SPONDENT NAME: MOHINDER MASHIANA AKA MOHINDER SINGH DBA LOVELY FOOD MART

ORDER TYPE:

<input type="checkbox"/> 1660-AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

TE WHERE VIOLATION(S) OCCURRED: 704 East Byron Nelson Boulevard, Roanoke, Denton County

YPE OF OPERATION: Convenience store with retail sales of gasoline

MALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 24, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Mary E. Coleman, Litigation Division, MC R-4, (817) 588-5917;

Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Ms. Judy Kluge, Waste Enforcement Section, MC R-4, (817) 588-5825

TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903

Respondent: Mr. Mohinder Mashiana, Owner, Lovely Food Mart, 704 East Byron Nelson Boulevard, Roanoke, Texas 76262

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint</p> <p><input checked="" type="checkbox"/> Routine</p> <p><input type="checkbox"/> Enforcement Follow-up</p> <p><input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigations Relating to this Case: July 29, 2005</p> <p>Date of NOE Relating to this Case: August 11, 2005</p> <p>Background Facts:</p> <p>An EDPRP was filed on January 18, 2006. The Respondent signed an Agreed Order with a payment plan on December 10, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST:</p> <p>1. Failed to provide proper release detection for the USTs. Specifically, the Respondent failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>2. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate. Specifically, the delivery certificate expired on April 30, 2005 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].</p> <p>3. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting a delivery of a regulated substance into a UST. Specifically, the Respondent received seven deliveries of gasoline without a valid delivery certificate on July 2, 8, 11, 15, 19,</p>	<p>Total Assessed: \$8,320</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p>Total Paid/Due to General Revenue: \$270/\$8,050</p> <p>The Respondent has paid \$270 of the administrative penalty. The remaining amount of \$8,050 shall be payable in 35 monthly payments of \$230 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action(s) Taken</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>1. On June 2, 2006, provided documentation to TCEQ staff that shows reconciliation and inventory control is being conducted properly at the Facility.</p> <p>2. As of June 2, 2006, holds a current, valid delivery certificate.</p> <p>Ordering Provisions</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Within 30 days, mark the top of each fill tube or non-removable point in the immediate area of the fill tube of each UST.</p> <p>2. Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 1.</p>

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
22, and 27, 2005 [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)]. 4. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube according to the UST registration and the Self-Certification Form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

DATES Assigned 22-Aug-2005
PCW 13-Sep-2007 Screening 30-Aug-2005 EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Mohinder Mashiana aka Mohinder Singh dba Lovely Food Mart
Reg. Ent. Ref. No. RN102240769
Facility/Site Region 4-Dallas/Fort Worth Major/Minor Source Minor Source

CASE INFORMATION

Enf./Case ID No. 26820 No. of Violations 4
Docket No. 2005-1478-PST-E Order Type 1660
Media Program(s) Petroleum Storage Tank Enf. Coordinator Deana Holland
Multi-Media EC's Team Enforcement Team 3
Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$8,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 4% Enhancement Subtotals 2, 3, & 7 \$320

Notes Enhancement for two NOVs without same or similar violations.

Culpability No 0% Enhancement

Subtotal 4 \$0

Notes The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction

Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer
Extraordinary
Ordinary
N/A X (mark with a small x)

Notes The respondent has not yet come into compliance.

Economic Benefit 0% Enhancement*

Subtotal 6 \$0

Total EB Amounts \$75
Approx. Cost of Compliance \$1,800

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7.

Final Subtotal \$8,320

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$8,320

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$8,320

DEFERRAL

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

This is not an expedited case.

PAYABLE PENALTY

\$8,320

Screening Date 30-Aug-2005

Docket No. 2005-1478-PST-E

PCW

Respondent Mohinder Mashiana aka Mohinder Singh dba Lovely Food-Mart

Policy Revision 2 (September 2002)

Case ID No. 26820

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102240769

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Deana Holland

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	2	4%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Other	Please Enter Yes or No		
	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 4%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History Notes

Enhancement for two NOVs without same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

Screening Date 30-Aug-2005

Docket No. 2005-1478-PST-E

PCW

Respondent Mohinder Mashiana aka Mohinder Singh dba Lovely Food Mart

Policy Revision 2 (September 2002)

Case ID No. 26820

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102240769

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Deana Holland

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and 334.50(d)(1)(B)(ii)

Secondary Rule Cite(s) Tex. Water Code § 26.3475(c)(1)

Violation Description Failure to provide proper release detection for the USTs. Specifically, the respondent failed to conduct reconciliation of detailed inventory control records at least once each month; sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	X			

>> Programmatic Matrix

Falsification				Percent
	Major	Moderate	Minor	

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on the Investigation date of July 29, 2005 and the screening date of August 30, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$63

Violation Final Penalty Total \$2,600

This violation Final Assessed Penalty (adjusted for limits) \$2,600

Economic Benefit Worksheet

Respondent Mohinder Mashiana aka Mohinder Singh dba Lovely Food Mart
Case ID No. 26820
Reg. Ent. Reference No. RN102240769
Media [Statute] Petroleum Storage Tank
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$1,500	29-Jul-2005	01-Jun-2006	0.8	\$63	n/a	\$63
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to provide a method of release detection. The Date Required is the date of the investigation and the Final Date is the projected date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs n/a

Approx. Cost of Compliance \$1,500

TOTAL \$63

Screening Date 30-Aug-2005

Docket No. 2005-1478-PST-E

PCW

Respondent Mohinder Mashiana aka Mohinder Singh dba Lovely Food Mart

Policy Revision 7 (September 2002)

Case ID No. 26820

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102240769

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Deana Holland

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and 334.8(c)(5)(B)(ii).

Secondary Rule Cite(s)

Violation Description

Failure to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate. Specifically, the delivery certificate expired on April 30, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$1,000

One single event is recommended based on the investigation date of July 29, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$1,040

This violation Final Assessed Penalty (adjusted for limits) \$1,040

Economic Benefit Worksheet

Respondent Mohinder Mashiana aka Mohinder Singh dba Lovely Food Mart
Case ID No. 26820
Reg. Ent. Reference No. RN102240769
Media [Statute] Petroleum Storage Tank
Violation No. 2

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Percent Interest	Years of Depreciation
						5.0	15
						Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	30-Apr-2005	30-Apr-2006	1.0	\$5	n/a	\$5

Notes for DELAYED costs Estimated cost for completing a UST registration and self certification form. The Date Required is the expiration date of the previous delivery certificate and the Final Date is the projected date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs				n/a			

Approx. Cost of Compliance \$100

TOTAL \$5

Screening Date 30-Aug-2005

Docket No. 2005-1478-PST-E

PCW

Respondent Mohinder Mashiana aka Mohinder Singh dba Lovely Food Mart Policy Revision 2 (September 2002)

Case ID No. 26820

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102240769

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Deana Holland

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i)

Secondary Rule Cite(s) Tex. Water Code § 26.3467(a)

Violation Description

The respondent failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting a delivery of a regulated substance into a UST. Specifically, the respondent received seven deliveries of gasoline without a valid delivery certificate on July 2, 8, 11, 15, 19, 22, and 27, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			X

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$9,500

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events 7

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$3,500

Seven single events are recommended based on the seven delivery dates.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,640

This violation Final Assessed Penalty (adjusted for limits) \$3,640

Economic Benefit Worksheet

Respondent Mohinder Mashiana aka Mohinder Singh dba Lovely Food Mart
Case ID No. 26820
Reg. Ent. Reference No. RN102240769
Media [Statute] Petroleum Storage Tank
Violation No. 3

Percent Interest 5.0
Years of Depreciation 15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 2.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)				
Disposal	0.0	\$0	\$0	\$0	\$0
Personnel	0.0	\$0	\$0	\$0	\$0
Inspection/Reporting/Sampling	0.0	\$0	\$0	\$0	\$0
Supplies/equipment	0.0	\$0	\$0	\$0	\$0
Financial Assurance [2]	0.0	\$0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	0.0	\$0	\$0	\$0	\$0
Other (as needed)	0.0	\$0	\$0	\$0	\$0

Notes for AVOIDED costs

n/a

Approx. Cost of Compliance

TOTAL

Screening Date 30-Aug-2005

Docket No. 2005-1478-PST-E

PCW

Respondent Mohinder Mashiana aka Mohinder Singh dba Lovely Food Mart

Policy Revision 2 (September 2002)

Case ID No. 26820

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102240769

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Deana Holland

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(C)

Secondary Rule Cite(s)

Violation Description The respondent failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube according to the UST registration and self-certification form.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			Percent
OR	Release	Major	Moderate	Minor	
	Actual				
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$1,000

One single event is recommended based on the Investigation date of July 29, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,040

This violation Final Assessed Penalty (adjusted for limits) \$1,040

Economic Benefit Worksheet

Respondent Mohinder Mashiana aka Mohinder Singh dba Lovely Food Mart
Case ID No. 26820
Reg. Ent. Reference No. RN102240769
Media [Statute] Petroleum Storage Tank
Violation No. 4

Percent Interest 5.0
Years of Depreciation 15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	29-Jul-2005	01-Jun-2006	0.8	\$4	n/a	\$4

Notes for DELAYED costs The estimated cost includes the amount required to permanently affix a metal label to each UST fill tube. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal	0.0	\$0	\$0	\$0	\$0	\$0	\$0
Personnel	0.0	\$0	\$0	\$0	\$0	\$0	\$0
Inspection/Reporting/Sampling	0.0	\$0	\$0	\$0	\$0	\$0	\$0
Supplies/equipment	0.0	\$0	\$0	\$0	\$0	\$0	\$0
Financial Assurance [2]	0.0	\$0	\$0	\$0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	0.0	\$0	\$0	\$0	\$0	\$0	\$0
Other (as needed)	0.0	\$0	\$0	\$0	\$0	\$0	\$0
Notes for AVOIDED costs	n/a						

Approx. Cost of Compliance \$100

TOTAL \$4

Compliance History

Customer/Respondent/Owner-Operator: CN601584964 MASHIANA, MOHINDER Classification: AVERAGE Rating: 4.000

Regulated Entity: RN102240769 LOVELY FOOD MART Classification: AVERAGE Site Rating: 4.00

D Number(s): PETROLEUM STORAGE TANK REGISTRATION 70597

Location: 704 E BYRON NELSON BLVD, ROANOKE, TX, 76262 Rating Date: 9/1/05 Repeat Violator: NO

CEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: October 13, 2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 13, 2000 to October 13, 2005

CEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Deana Holland Phone: (512)239-2504

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Comments:

Components (Multimedia) for the Site :

1. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

2. Any criminal convictions of the state of Texas and the federal government.

N/A

3. Chronic excessive emissions events.

N/A

4. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 03/16/2004 (263575)
2 01/08/2004 (257809)
3 08/17/2005 (402672)
4 02/23/2004 (350098)
5 07/01/2005 (395719)
6 03/02/2004 (261533)

5. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/23/2004 (350098)

Self Report? NO

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]
30 TAC Chapter 37, SubChapter I 37.815(b)[G]

Classification: Moderate

Date: 01/07/2004
 Self Report? NO
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)
 Description: Failure to provide acceptable Financial Assurance.
 (257809)
 Classification: Minor

Self Report? NO
 Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)
 Description: Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the Texas Commission on Environmental Quality.
 Classification: Moderate

Self Report? NO
 Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)(G)
 Description: Failure to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification, whichever occurs first.
 Classification: Moderate

Self Report? NO
 Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(L)
 Description: Failure to ensure at least one facility representative receive training and instruction in the operation and maintenance of the Stage II vapor recovery system by successfully completing a training course approved by the Texas Commission on Environmental Quality.
 Classification: Moderate

Self Report? NO
 Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(E)
 Description: Failure to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, including a nozzle, hose, break-away, or any other component that is not approved for use with the certified vapor recovery system in use.
 Classification: Moderate

Self Report? NO
 Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)
 Description: Failure to maintain the stage II vapor recovery system in proper operating condition, and free of defects that would impair the effectiveness of the system, including for booted nozzles in vacuum assist type systems, a flexible cone for which a total of at least one-fourth of the cone is damaged or missing.
 Classification: Moderate

Self Report? NO
 Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)
 Description: Failure to provide and maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, including the absence or disconnection of any component that is a part of the approved system.
 Classification: Moderate

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MOHINDER MASHIANA AKA
MOHINDER SINGH DBA
LOVELY FOOD MART;
RN102240769

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

§
§
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§
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§

AGREED ORDER
DOCKET NO. 2005-1478-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Mohinder Mashiana aka Mohinder Singh dba Lovely Food Mart ("Mr. Mashiana") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Mashiana appear before the Commission and together stipulate that:

1. Mr. Mashiana owns and operates a convenience store with retail sales of gasoline located at 704 East Byron Nelson Boulevard, Roanoke, Denton County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Mr. Mashiana agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Mashiana is subject to the Commission's jurisdiction.
4. Mr. Mashiana received notice of the violations alleged in Section II ("Allegations") on or about August 23, 2005.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Mashiana of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of eight thousand three hundred and twenty dollars (\$8,320.00) is assessed by the Commission in settlement of the violations alleged

in Section II ("Allegations"). Mr. Mashiana has paid two hundred and seventy dollars (\$270.00) of the administrative penalty. The remaining amount of eight thousand fifty dollars (\$8,050.00) shall be payable in 35 monthly payments of two hundred thirty dollars (\$230.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Mashiana fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Mashiana to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Mashiana to timely and satisfactorily comply with all of the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Mashiana have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Mr. Mashiana has implemented the following corrective measures at the Facility:
 - a. On June 2, 2006, Mr. Mashiana provided documentation to TCEQ staff that shows reconciliation and inventory control is being conducted properly at the Facility.
 - b. On June 2, 2006, Mr. Mashiana provided a copy of his current, valid, delivery certificate to TCEQ staff.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Mashiana has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Mr. Mashiana is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (d)(1)(B)(ii), and TEX. WATER CODE § 26.3475(c)(1) by failing to provide proper release detection for the USTs. Specifically, Mr. Mashiana failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.
2. 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii) by failing to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate. Specifically, the delivery certificate expired on April 30, 2005.
3. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a) by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting a delivery of a regulated substance into a UST. Specifically, Mr. Mashiana received seven deliveries of gasoline without a valid delivery certificate on July 2, 8, 11, 15, 19, 22, and 27, 2005.
4. 30 TEX. ADMIN. CODE § 334.8(c)(5)(C) by failing to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube according to the UST registration and self-certification form.

III. DENIALS

Mr. Mashiana generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Mashiana pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Mashiana's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to

"Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Mohinder Mashiana aka Mohinder Singh dba Lovely Food Mart, Docket No. 2005-1478-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. Mashiana shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, Mr. Mashiana shall mark the top of each fill tube or non-removable point in the immediate area of the fill tube of each UST, in accordance with 30 TEX. ADMIN. CODE § 334.8.
- b. Within 45 days after the effective date of this Agreed Order, Mr. Mashiana shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Mr. Mashiana shall submit all correspondence, reports, and documentation required by these Ordering Provisions to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

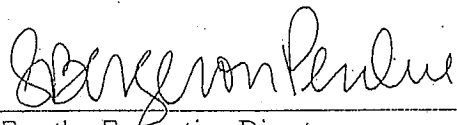
Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Mashiana. Mr. Mashiana is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Mr. Mashiana fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Mashiana's failure to comply is not a violation of this Agreed Order. Mr. Mashiana shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Mashiana shall notify the Executive Director within seven days after Mr. Mashiana becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Mashiana shall be made in writing to the Executive Director. Extensions are not effective until Mr. Mashiana receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Mashiana in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Mashiana, or three days after the date on which the Commission mails notice of the Order to Mr. Mashiana, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

2/27/08

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

12-10-07

Date

MohINDER MASHIANA

Name (Printed or typed)

President

Title

Authorized representative of

Mohinder Mashiana aka Mohinder Singh dba Lovely Food Mart